

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED
JUL 29 2013
Clerk, U S District Court
District Of Montana
Billings

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES BENJAMIN ARNOLD,

Defendant.

CR 12-122-BLG-DWM

ORDER

United States Magistrate Judge Carolyn Ostby entered Findings and Recommendation in this matter on June 19, 2013. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error.

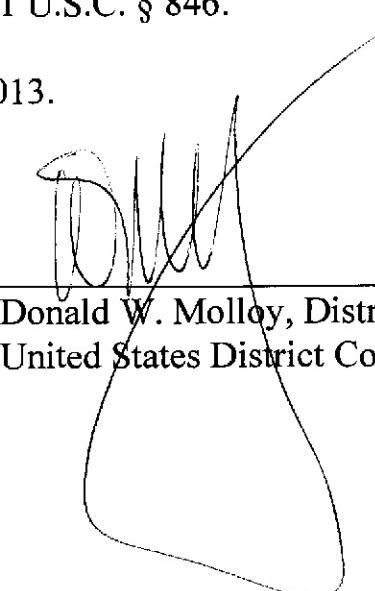
McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Ostby recommended this Court accept James Benjamin Arnold's guilty plea after Arnold appeared before her pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to Count I of the Indictment, which charges the crime of Conspiracy to Possess with Intent to Distribute Marijuana, in violation of 21 U.S.C. § 846.

I find no clear error in Judge Ostby's Findings and Recommendation (doc. 26), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that James Benjamin Arnold's motion to change plea (doc. 19) is GRANTED and his plea of guilty is accepted and he is now adjudged guilty of the crime of Conspiracy to Possess with Intent to Distribute Marijuana, in violation of 21 U.S.C. § 846.

DATED this 24 day of July, 2013.


Donald W. Molloy, District Judge
United States District Court